



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlord: MND FF
Tenant: MNEVC FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on April 9, 2024. Both parties applied for multiple remedies under the *Residential Tenancy Act* (the “Act”).

Both parties attended the hearing and provided affirmed testimony. The Landlords acknowledged receipt of the Tenants’ application package and evidence. The Tenants acknowledged receipt of the Landlords’ application package, and evidence. No service issues were raised.

All parties provided testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

At the outset of the hearing, the Tenants requested to withdraw their application. I hereby allow the withdrawal of the application, and it is dismissed, in full, with leave.

Issues to be Decided

- Is the Landlord entitled to compensation for damage to the unit?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The parties confirmed that the tenancy started November 30, 2021, and ended August 31, 2023. The Landlord collected a security deposit, but a decision on that matter has already been rendered. The Landlord did not conduct a formal move-in or move-out inspection and did not complete a condition inspection report. The Landlord also did not provide any photos taken at the start of the tenancy, and only provided a couple of photos taken near the end of the tenancy on or around August 20, 2023.

The Landlord is seeking the following items:

- 1) \$50.00 – outlet covers
- 2) \$100.00 – toilet flush handles
- 3) \$150.00 – shower curtain
- 4) \$100.00 – bug screen
- 5) \$50.00 – strike plate
- 6) \$250.00 – flooring damage

The Landlord asserts the Tenants caused all of the above damages, and provided some receipt for the above items, although the amounts do not match what he is seeking.

The Tenants do not agree that they ought to be responsible for these items. They pointed out that the amounts do not coincide with the receipts, and they assert the rental unit had issues before they moved in.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenant. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did everything possible to minimize the damage or losses that were incurred.

Condition Inspection Report

Sections 23 and 35 of the Act states that a Landlord and Tenant together must inspect the condition of the rental unit on the day the Tenant is entitled to possession of the rental unit, and at the end of the tenancy before a new tenant begins to occupy the rental unit. Both the Landlord and Tenant must sign the condition inspection report and the Landlord must give the Tenant a copy of that report in accordance with the regulations.

Section 21 of the Residential Tenancy Regulation states:

in dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

I find there is insufficient evidence that the Landlord performed a move in and move out inspection with the Tenant as required by the Act. Further, I find the Landlord has provided no evidence to show what the condition of the rental unit was at the beginning of the tenancy, and no condition inspection report was completed.

I find this is problematic for the Landlord's claim, since he has no evidence to support that any of the damaged items are the responsibility of the Tenants, and the Tenants do not agree they should have to pay for any of these amounts. Further, there is no evidence to show that these were not pre-existing issues. I do not find the Landlord has met the burden of proof on any of the items he is seeking. I hereby dismiss the Landlord's application, in full, without leave.

Conclusion

The Landlord's application is dismissed, in full, without leave.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 19, 2024